

## **REMARKS**

### **I. Petition for Extension of Time**

Applicants herewith petition the Commissioner for Patents to extend the time for response to the Office Action mailed December 27, 2007 for three (3) months from March 27, 2008 to June 27, 2008. Authorization is given to charge the extension of time fee of \$1050.00 (37 C.F.R. §1.136 and §1.17) to Deposit Account No. 23-1703. Any deficiency or overpayment should be charged or credited to the above numbered deposit account.

### **II. Disposition of Claims**

Claims 15-28 are pending. Due to the restriction requirement of record, claims 19-23 have been withdrawn from consideration. Due to the election of species requirement of record, claims 26-27 have been withdrawn. Claims 15-18, 24, 25 and 28 are under consideration.

### **III. Claim Amendments**

Claims 15-18 have been amended to recite that the active is administered to a patient suffering from gastroesophageal reflux disease (GERD). Support is provided throughout the specification, e.g., the Abstract; page 2, lines 12-16. Claim 17 has also been amended by the deletion of the expression "prevention", which has been replaced with -- inhibition --, and by the insertion of the expression -- [reflux] of gastric juice--. Support is found on pages 2-3 of the specification under the heading "Outline of the invention". Similarly, claim 18 has been amended by the deletion of the expression "prevention" and by the insertion of the expression -- [regurgitation] of gastric juice--.

Applicants submit that no new matter has been introduced by the claim amendments

### **IV. Claim Rejections – 35 U.S.C. §112, first paragraph**

Claims 17, 18, 24, 25 and 28 are rejected under 35 U.S.C. §112, first paragraph, for lack of enablement. On page 3 of the final Office Action, the Examiner alleges that the specification provides no support for the prevention of the recited indications. To advance the application to

allowance, claims 17 and 18 have been amended by the deletion of the expression “prevention”  
It is submitted that this claim amendment renders moot the lack of enablement rejection.  
Withdrawal thereof is respectfully requested.

Claims 15-18, 24, 25 and 28 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Claims 15-18 have been amended to recite that active is administered to a patient suffering from gastroesophageal reflux disease (GERD). Support is provided throughout the specification, e.g., the Abstract; page 2, lines 12-16). Applicants submit therefore that the §112 rejection for failure to comply with the written description requirement is moot in view of the claim amendments. Withdrawal thereof is respectfully requested.

#### **V. Request for Withdrawal of the Election of Species Requirement**

The Examiner is respectfully requested to reconsider the election of species requirement and to examine the claims with a view of the genus, i.e., metabotropic glutamate receptor 5 antagonists, rather than just the elected species MPEP. It is submitted that the claim amendments obviate the §112, first paragraph, rejections of record. And the Examiner has not yet made a prior art rejection of record. Therefore, the claims are in form for a prior art examination in their broadest scope encompassing the genus of the recited active.

**CONCLUSION**

The claim amendments made herein render moot the claim rejections of record. Therefore, it is submitted that application is in condition for allowance.

Authorization is hereby given to charge any fee due in connection with this communication to Deposit Account No. 23-1703.

Dated: June 18, 2008

Respectfully submitted,

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